



WEB COPY

W.P.(MD)No.5556 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.P. (MD)No.5556 of 2021 and

WMP(MD) No.4406 of 2021

(Through Video Conferencing)

R.B.Kannan

: Petitioner

Vs.

1.The District Collector
Ramanathapuram District
Ramanathapuram.

2.The District Forest Officer,
Ramanathapuram District,
Ramanathapuram.

3.The Forest Ranger Officer,
Thangachimadam Region
Rameshwaram Taluk
Ramanathapuram District.

4.The Tahsildar,
Rameshwaram Taluk
Ramanathapuram District.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus forbearing the respondents from evicting the petitioner from peaceful possession and enjoyment in S.F.No.1026/5A for an extent of 3 acre, situated at Natarajapuram Village, Puthu Road, Rameshwaram Taluk, Ramanathapuram District without following any due process of law.

For Petitioner : Mr.T.Vadivelan

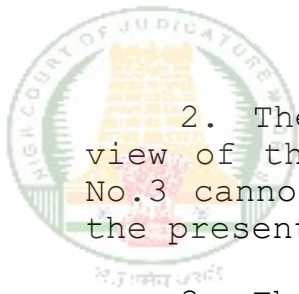
For Respondents : Mr.K.Mu.Muthu

Additional Government Pleader

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner placing reliance upon a B Memo issued by the revenue official, which was subsequently cancelled by the proceedings of the Tahsildar, Rameshwaram, dated 21.03.2015, seeks to protect his possession at the hands of the respondent No.3.



2. The learned counsel for the petitioner submitted that in view of the fact that the 'B Memo' is in currency, the respondent No.3 cannot evict him. The suit filed is only for S.No.1017/2 and the present writ petition is filed for S.No.1026.

3. The learned Special Government Pleader for the respondent No.3 has produced the following instructions:

"1.The land available in the S.F.No.1026/5 was notified under Section 26 of the Tamil Nadu Forest Act 1882 vide Ramanathapuram District Gazette NO.2 dated 14.02.1988. Any land once declared under section 26 of the said act becomes reserved land and it attracts the provisions of Forest Conservation Act, 1980. As per section 2 of the Forest Conservation Act, 1980 no land can be diverted for non forestry purpose without the prior approval of the Government of India. The above said land is recorded as belonging to forest department in the 'A' Register and "Adangal".

2.Once a land has been declared as Reserved land the revenue officials have no right to issue "B" memos, but the village administrative officer of Rameshwaram village had been issuing B Memo for many survey numbers which was declared under section 26 of Tamilnadu Forest Act, 1988. The wrongful act was brought to the notice of the District Collector, Ramanathapuram with a copy to Tahsildar, Rameshwaram, by the District Forest Officer, Ramanathapuram vide letter no.2945/2012 dated 25.12.2014. Accordingly, the Tahsildar, Rameshwaram vide proceedings K.Dis No.m1/66/15 dated 21.03.2015, cancelled the 'B' memo receipts issued to 46 persons in various survey numbers. In the said proceedings the name of Thiru.Shanmugam mentioned in Sl.No.21, the predecessor to the petitioner in S.F.No.1026/5A also appears. In the said proceedings it is also clearly mentioned that the land comprising in the survey numbers mentioned in that proceedings are transferred to Forest Department.

3.The petitioner along with one another namely Thiru.Saravanakumar had filed a case (O.S.No.14/2015) before the Principal District Judge, Ramanathapuram for claiming ownership for the land comprised in S.F.No.1017/2 (1 Acres and 63 cents) and S.F.No.1026 (4 Acres and 60 cents). The boundaries mentioned for the land S.F.No.1026 in O.S.No.14/15 and S.F.No.1026/5A in this writ petition are same. After giving due opportunity the above O.S.No.14/2015 was dismissed with cost, by the orders of the Additional District Judge, Ramanathapuram on 28.07.2017.



Under these circumstances it is requested to plead before the Court for next hearing and get additional time for filing a detailed counter affidavit in the case."

4. Placing reliance upon the above along with the judgment and the plaint in O.S.No.14/2015, which was delivered on 28.07.2017, the learned Special Government pleader submitted that the suit was filed for permanent injunction and it was dismissed with costs.

5. Insofar as the S.No.1026 is concerned, the suit filed was dismissed with costs in O.S.No.14/2015 dated 28.07.2017. It has attained finality. We have not only perused the plaint, but also the suit judgment. The learned Special Government Pleader submitted that the possession has already been taken.

6. The authority, who issued B Memo, was not competent to do so. It was accordingly cancelled by the proceedings of the Tahsildar dated 21.03.2015. We need not say anything on the power conferred under the Forest Conservation Act 1980. The land in question is a forest land. The suit properties are S.Nos.1017/2 and 1026. The petitioner has deliberately suppressed the filing and dismissal of the suit. The suit was dismissed as early as on 28.07.2017 in O.S.No.14/2015. Therefore, absolutely there is no merit in this writ petition. Accordingly, this writ petition stands dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector
Ramanathapuram District
Ramanathapuram.

2.The District Forest Officer,
Ramanathapuram District,
Ramanathapuram.



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+1 CC to M/s.SPL GP (SR-12783[F] dated 22/03/2021)

W.P. (MD)No.5556 of 2021
Dated: 19.03.2021

DKS (CO)
KB(07.04.2021) 4P 6C